

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 0.23 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)), THE PARTY CITING THE SUMMARY ORDER MUST FILE AND SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED. IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 26th day of October, two thousand and seven.

PRESENT:

HON. ROBERT A. KATZMANN,
HON. DEBRA ANN LIVINGSTON,
Circuit Judges.
HON. EDWARD R. KORMAN,
*District Judge.**

Charlotte Dennett,
Plaintiff-Appellant,

-v.-

Central Intelligence Agency,
Defendant-Appellee.

No. 07-0021-cv

Appearing for Plaintiff-Appellant: Charlotte Dennett, *pro se*, Cambridge, VT

*The Honorable Edward R. Korman, United States District Judge for the Eastern District of New York, sitting by designation.

Appearing for Defendant-Appellee: Michael P. Drescher, Assistant United States Attorney, (Thomas D. Anderson, United States Attorney for the District of Vermont, Carol L. Shea, Chief Civil Division, *on the brief*), District of Vermont, Burlington, VT

UPON DUE CONSIDERATION, it is hereby **ORDERED, ADJUDGED AND DECREED** that the order of the district court is **AFFIRMED**.

Appellant Charlotte Dennett, *pro se*, appeals from a November 2, 2006 order, of the United States District Court for the District of Vermont (Murtha, *J.*) denying her motion for an extension of time to file a notice of appeal under Fed. R. App. P. 4(a)(5). We presume the parties' familiarity with the facts and procedural history of the case, and the arguments on appeal.

This Court reviews the district court's denial of a motion for an extension of time under Fed. R. App. P. 4(a)(5) for abuse of discretion. *Goode v. Winkler*, 252 F.3d 242, 245 (2d Cir. 2001) (*per curiam*). If a notice of appeal is filed beyond the 60-day period, upon a party's motion under Fed. R. App. P. 4(a)(5), "[the] district court may, on a showing of good cause or excusable neglect," extend the period to file a notice of appeal "for up to 30 days from the original deadline or until 10 days after the date of entry of the order granting the motion, whichever is later." *Mendes Junior Int'l Co. v. Banco do Brasil*, 215 F.3d 306, 312 (2d Cir. 2000).

Here, the district court properly found that although appellant timely moved for an extension of time to file a notice of appeal, her excuse for the late filing - that she mailed the notice of appeal to the wrong address - did not constitute excusable neglect. *See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'tshp.*, 507 U.S. 380, 392 (1993) ("inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect");

(“The excusable neglect standard can never be met by a showing of inability or refusal to read and comprehend the plain language of the federal rules.” (quoting *In re Cosmopolitan Aviation Corp.*, 763 F.2d 507, 515 (2d Cir. 1985)) (internal citations omitted); *Canfield v. Van Atta Buick/GMC Truck, Inc.*, 127 F.3d 248, 251 (2d Cir. 1997) (per curiam) (“failure to follow the clear dictates of a court rule will generally not constitute” excusable neglect); *Weinstock v. Cleary, Gottlieb, Steen & Hamilton*, 16 F.3d 501, 503 (2d Cir. 1994). As the district court noted, appellant waited until the last possible day to mail her notice of appeal and ascertained the address for the court from an out-of-date directory. Further, the undisputed evidence demonstrates that appellant received proper instructions from the district court about how to file her notice of appeal and, although these instructions did not include the district court’s address, appellant had previously filed numerous documents in that court. Thus, there is no indication that the district court abused its discretion in determining that appellant’s actions did not constitute excusable neglect and denying her motion for an extension.

Accordingly, the order of the district court is AFFIRMED.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

By: _____